

REMARKS

Claims 17 - 27 are pending the application; all claims stand rejected. Claims 17, 20 and 24-26 have been amended. These amendments add no new matter to the application.

Applicant gratefully acknowledges the Examiner's consideration of Applicant's arguments filed August 2008, and responds to the Examiner's remarks (paragraph 3) on those arguments as follows¹:

The Examiner currently holds Quackenbush's Baggage Direct Website 310 as equivalent to Applicant's luggage carrier (referring to Quackenbush Figure 3). If that is so, then Website 310 cannot also be equivalent to Applicants luggage transport service site (mySkyCap site in Applicant figure 1). Thus Quackenbush does not disclose the requisite luggage transport service site, and that element of the claim is unmet in Quackenbush.

Website 310 does not run a client application, and the Examiner is not correct in assuming that a client application enables interaction between user and Website 310 or any other luggage carrier website. "Client" application in this case refers only to an luggage transport client application that interacts with a corresponding luggage transport "server" application on a luggage transport service site.

There is no corresponding claim element for Quackenbush's Airline Website, and the interaction between Website 310 and the airlines is irrelevant to the pending claims. The claims speak only to the interaction between a centralized luggage transport service and the various luggage carriers, none of whom are airlines. Thus, the functionality of Quackenbush's Website 310 and the airlines is not at all the same as Applicant's claimed luggage carrier luggage transport client application and the luggage transport service server application.

The Examiner cites for this "same functionality" proposition the old case of *In re Dulberg*, 129 USPQ 348 (CCPA 1961). Applicant respectfully submits that this case does not apply here,

¹ The Examiner's attention is respectfully directed to our telephone Interview on 11/8/07, as a result of which amendments were made to all instances of "service partner" clarifying them to "luggage carrier" to make clear that the party that is required to have the luggage transport client application is the actual luggage carrier, not some intermediary, and to make explicit that this luggage transport client application on the luggage carrier's computer is the one that interacts with the luggage transport service site's luggage transport server application. Applicant notices that there are still instances in Examiner correspondence where the term "service partner" is referred to, and it may be that this is misleading to the Examiner.

as it discusses nothing more than a replaceable lipstick patent application, and nowhere contains the language asserted by the Examiner. It is impossible to see how this case instructs the present application in any way. This is not a case about replaceable parts.

Applicant submits that the claims as amended for clarification now more clearly present these distinctions, and reconsideration is requested.

Claims 26-27 stand rejected under 35 USC 101 as allegedly directed to non-statutory subject matter; Applicant respectfully traverses this rejection. Applicant is aware of the 1/7/09 interim guidelines to Examiners on statutory subject matter in view of the *Bilski* decision. Applicant submits that the claims as filed meet these guidelines in that they are both tied to a particular machine or apparatus and they transform data from one form into another form. Nonetheless, Applicant has clarified the claims in amendments to more particularly point out that these conditions are both satisfied (though only one is required). As the Examiner is probably aware, a physical transformation was not required in *Bilski*, and transformation of data can be patent eligible. No transformation of the underlying physical object represented by the data is required. The amended claims now clearly recite a machine (computer, storage medium) for every step, and require data (travel segment data, luggage transport data) be transformed to data in another form (output match data). The claims are thus believed to be statutory and in condition for allowance.

Claims 17 - 27² stand rejected under 35 USC §103(a) as being allegedly obvious over Quackenbush in view of Lanigan and Barni; Applicant respectfully traverses these rejections. However, and without prejudice to Applicant's right to further assert unamended or differently amended claims in subsequent prosecutions, Applicant has carefully considered the Examiner's comments and has therefore now amended independent claims 17, 20 and 26 to clarify in a structural way that the luggage transport service is independent from the luggage handling service, and each has its own site and computer(s), and that the luggage transport client application on each

² Method claims 26 and 27 were presented at the suggestion of the Examiner as being narrower than the corresponding system claims 17 and 20, and though included in the listing of 103 rejections, there is no 103 discussion of claim 26. Apart from the 101 rejection of these claims, which is now believed to be overcome, they are believed to distinguish over the cited references and are in condition for allowance.

luggage carrier's computer interacts with (must be operably connected with) the luggage transport service site's luggage transport server application.

Quackenbush teaches that the entity which picks up a traveler's luggage is a Ground Delivery Operator or GDO (what Applicant refers to as luggage carriers), and that the GDO is separate from the Baggage Direct Website 310. There is no teaching however that any of the GDOs have a website, and certainly no teaching that a GDO employs a luggage transport client application. There is also no teaching that Website 310 runs any kind of a luggage transport server application, for interaction with a GDO luggage transport client application.

The Examiner also appears to confuse the luggage service's user interface (for communicating with a user) with the luggage service's client application (for communicating with the luggage transport service), and seems to be referring to these two different communications systems as 'mere duplication of parts' and says that 'mere duplication of parts has no patentable significance', and cites for this the case of *In re Harza*, 124 USQ 378 (CCPA 1960),

Insofar as claim 1 is concerned, we agree with the Board of Appeals. The basic structure of this claim is not patentably distinguishable from that taught by Gardner. The only distinction to be found is in the recitation in claim 1 of a plurality of ribs on each side of the web whereas Gardner shows only a single rib on each side of the web. It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced, and we are of the opinion that such is not the case here.

But this passage only talks about literal duplication of parts; *i.e.* the reference showed a single rib, and the claim at issue recited multiple ribs. Yet with respect to other recitations in the claims, the Court went on to say, in the same case,

We do not agree with the board's affirmance of the rejection of claim 7. In this claim there exists an element which is neither disclosed in Gardner nor in Gardner in view of Roberts and Schurman, and two combinations of elements which are not suggested by any combination of the references. We refer to the feature of "each rib being substantially as high as the spacing between adjacent ribs." This is novel, and its utility, as expressed by the applicant, is apparent. Further, the combination of that element and the element defined by the recitation of "the ribs on said opposite faces being laterally spaced in offset relation" is patentably distinguishable from the references. Although Roberts shows the offset positioning claimed, we believe the offsetting in combination with the claimed dimensional relationship of the ribs produces new and unobvious results which are not suggested by any combination of the references. The other combination recited in this claim which we believe patentable consists of the feature of "a plurality of parallel ribs in spaced relation to one another on each of said faces" and the element of the ribs on opposite sides being spaced in offset relation. Even though we found in considering claim 1, that the plurality of ribs is not patentable per se and have stated that Roberts shows the offsetting of the ribs, we believe the two features taken together

create a patentable combination. Claims 8 and 9, being dependent upon claim 7, are therefore patentable and we reverse the board's affirmance of the rejection of these claims also.

Applicant submits that it is this latter type of recitation (two separate luggage service communication platforms) that is at issue in the present case; not a 'mere duplication of parts', and *In re Harza* actually supports allowance of the pending claims.

Barni only teaches "a given server in the computer network operates a web site at which a plurality of freight forwarders/carriers may publish rates in a centralized location." [Barni, col. 3, lines 36-38]. The interaction between Barni's freight forwarders and carriers and the "computer program [singular] operative at a web server" [Barni, col. 3, lines 65-66] is accomplished through the freight forwarders and carriers accessing the single web site and manually posting their rates [Barni, col. 5, lines 19-21], or by emails sent out to the freight forwarders and carriers [Barni col. 6, lines 13-15]. Thus Barni actually teaches that it is advantageous not to have client applications running on the freight forwarders and carriers computer systems. Barni therefore does not teach, and even teaches away from, that each luggage carrier must run a client application on the luggage carrier computer which interacts with a luggage transport server application on the luggage transport service site, and the claims therefore do not read upon Barni, or any combination of the art.

The only mention in the entirety of Lanigan's application of a computer is in Figure 5 and paragraph [0035] where a computer is only used to sort bags according to the reading of a radio frequency tag. Thus Lanigan also does not teach, and even teaches away from, that each luggage carrier must run a client application on the luggage carrier computer which interacts with a luggage transport server application on the luggage transport service site, and it is thus believed to be clear that the claims, at least as amended, do not read upon Lanigan or any combination of the art.

By way of reminder, Claims 24-25 were presented, as suggested by the Examiner, to include limitations from Figures 5-7 and the corresponding specification that require a family profile input and modification process and a luggage profile input and modification process

respectively. As the Examiner said, Quackenbush does not have these features and no combination of cited references teaches them. These claims currently stand rejected essentially as an objection to the form of the claims; the Examiner says the distinguishing limitations appear only in "non-functional descriptive material and are not functionally involved in the steps recited." Applicant traverses and amends these claims for clarity to more particularly point out the interactive functional relationship of the new limitations with the claimed subject matter. Claims 24-25 are now therefore believed to be allowable.

It is believed that Quackenbush, Lanigan and Barni, neither singly, nor together, contain all of the limitations of the claims, at least as currently amended. Also dependent Claims 18, 19, 21-25 and 27 necessarily incorporate all the limitations of the independent claims from which they depend, and therefore therefore also do not read on Quackenbush, Lanigan and Barni.

Applicant believes that it has responded fully to all of the concerns expressed by the Examiner in the Office Action, and respectfully requests reexamination of all rejected claims and early favorable action on all claims. Applicant requests that the Examiner allow an Interview with the undersigned prior to any action on the case. Applicant's attorney Patrick Dwyer may be reached at (206) 550-4049 to arrange this Interview.

Respectfully submitted,



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